



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-10381-01-R5]

Availability of Federally-Enforceable State Implementation Plans for All States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of availability.

SUMMARY: Section 110(h) of the Clean Air Act (CAA), as amended in 1990, requires EPA to assemble the requirements of the federally-enforceable State Implementation Plans (SIPs) in each State and to provide notification in the *Federal Register* of the availability of such documents every three years. This document fulfills the three-year requirement of making these SIP compilations for each State available to the public. This document also addresses EPA's obligation under a consent decree which required EPA to assemble and publish online the SIP rules that have been approved by EPA as of August 31, 2022.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for specific regional addresses and contacts.

FOR FURTHER INFORMATION CONTACT: Christos Panos, EPA, Air and Radiation Division (AR-18J), Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328, panos.christos@epa.gov.

SUPPLEMENTARY INFORMATION:

I. How can I comment or obtain more information on plans where I live?

You may contact the appropriate EPA Regional Office regarding the requirements of the applicable implementation plans for each State in that region. The list below identifies the appropriate regional office for each state. The SIP compilations are available for public inspection during normal business hours at the appropriate EPA Regional Office. If you want to

view these documents, you should make an appointment with the appropriate EPA office and arrange to review the SIP at a mutually agreeable time.

Region 1: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Regional Contact: Ariel Garcia (617/918-1660, garcia.ariel@epa.gov), EPA, Office of Ecosystem Protection, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-1>.

Region 2: New Jersey, New York, Puerto Rico, and Virgin Islands.

Regional Contact: Linda Longo (212/637-3565, longo.linda@epa.gov), EPA, Air Programs Branch, 290 Broadway, New York, NY 10007-1866.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-2>.

Region 3: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

Regional Contact: Gregory Becoat (215/814-2036, becoat.gregory@epa.gov), EPA, Office of Air and Radiation (3AD00), Four Penn Center 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103-2029.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-3>.

Region 4: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Regional Contact: Sarah LaRocca (404/562-8994, larocca.sarah@epa.gov), EPA Region 4, Air Planning Branch, Air Regulatory Management Section, 61 Forsyth Street, SW., Atlanta, GA 30303-3104.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-4>.

implementation-plans-region-4.

Region 5: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Regional Contact: Christos Panos (312/353-8328, panos.christos@epa.gov), EPA, Air and Radiation Division (AR-18J), 77 West Jackson Boulevard, Chicago, IL 60604-3507.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-5>.

Region 6: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Regional Contacts: Karolina Ruan-Lei (214/665-7346, ruan-lei.karolina@epa.gov), Adina Wiley (214/665-2115, wiley.adina@epa.gov) and Bill Deese (214/665-7253, deese.william@epa.gov), EPA, Air and Radiation Division, State Planning and Implementation Branch (R6 AR-SH), 1201 Elm Street, Suite 500, Dallas, TX 75270.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-6>.

Region 7: Iowa, Kansas, Missouri, and Nebraska.

Regional Contact: Sarah Watterson (913/551-7797, watterson.sarah@epa.gov), EPA, Air and Radiation Division, Air Quality & Planning Branch, 11201 Renner Blvd., Lenexa, KS 66219.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-7>.

Region 8: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Regional Contact: Aaron Zull (303-312-6157, zull.aaron@epa.gov), EPA, Air and Radiation Division, Air Quality Planning Branch, 1595 Wynkoop Street, Denver, CO 80202-1129.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-8>.

Region 9: Arizona, California, Hawaii, Nevada, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

Regional Contacts: Kevin Gong (415/972-3073, gong.kevin@epa.gov) and Doris Lo (415/972-3959, lo.doris@epa.gov), EPA, Air and Radiation Division, Rules Office, (AIR-3-2), 75 Hawthorne Street, San Francisco, CA 94105.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-9>.

Region 10: Alaska, Idaho, Oregon, and Washington.

Regional Contact: Randall Ruddick (206/553-1999, ruddick.randall@epa.gov), EPA Region 10, Air and Radiation Division (15-H13), 1200 Sixth Avenue, Suite 155, Seattle, WA 98101.

See also: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-10>.

II. What Is the Basis for This Document?

Section 110(h)(1) of the CAA mandates that not later than 5 years after the date of enactment of the CAA Amendments of 1990, and every three years thereafter, the Administrator shall assemble and publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan for such State and shall publish notice in the *Federal Register* of the availability of such documents.

Section 110(h) recognizes the fluidity of a given State SIP. The SIP is a living document which can be revised by the State to address its unique air pollution problems. The CAA requires EPA to take action on any revisions to the SIP, including those containing new and or/revised regulations. *See* CAA section 110(k). On May 31, 1972 (37 FR 10842), EPA approved, with certain exceptions, the initial SIPs for 50 states, four territories and the District of Columbia. [Note: EPA approved an additional SIP -- for the Northern Mariana Islands -- on November 10, 1986 (51 FR 40799)]. Since 1972, each State and territory has submitted numerous SIP revisions, either on their own initiative, or because they were required to under the CAA. This notice of availability informs the public that the SIP compilation has been updated to include the

most recent requirements approved into the SIP. These approved requirements are federally-enforceable.

This document also addresses EPA's obligation under a consent decree in *Our Children's Earth Foundation v. Regan*, No. 4:20-cv-08530-YGR (N.D. Cal December 13, 2021), which established deadlines for EPA to publish online, the regulations, ordinances, and statutes and source specific permits or requirements approved by EPA and incorporated by reference in the Code of Federal Regulations.

III. Background.

A. Relationship of National Ambient Air Quality Standards (NAAQS) to SIPs.

EPA has established primary and secondary NAAQS for six criteria pollutants, which are widespread common pollutants known to be harmful to human health and welfare. The criteria pollutants are carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. See 40 CFR part 50 for a technical description of how the levels of these standards are measured and attained. See also <https://www.epa.gov/criteria-air-pollutants>. SIPs provide for implementation, maintenance, and enforcement of the NAAQS in each state. Areas within each state that are designated nonattainment are subject to additional planning and control requirements. Accordingly, different regulations or programs in the SIP will apply to different areas. EPA lists the designation of each area at 40 CFR part 81.

B. What Is a SIP?

The SIP is a plan for each State that provide for implementation, maintenance, and enforcement of the NAAQS. The SIP also identifies how that State will attain and/or maintain the primary and secondary NAAQS set forth in section 109 of the CAA and 40 CFR 50.4 through 50.13 and 50.15 through 50.17 and which includes federally-enforceable requirements. Each State is required to have a SIP which contains control measures and strategies which demonstrate how each area will attain and maintain the NAAQS. These plans are developed through a public process, formally adopted by the State, and submitted by the Governor's

designee to EPA. The CAA requires EPA to review each plan and any plan revisions and to approve the plan or plan revisions if consistent with the CAA.

SIP requirements applicable to all areas are provided in section 110. Part D of title I of the CAA specifies additional requirements applicable to nonattainment areas. Section 110 and part D describe the elements of a SIP and include, among other things, emission inventories, a monitoring network, an air quality analysis, modeling, attainment demonstrations, enforcement mechanisms, and regulations which have been adopted by the State to attain or maintain NAAQS. EPA has adopted regulatory requirements which spell out the procedures for preparing, adopting and submitting SIPs and SIP revisions; these are codified in 40 CFR part 51.

EPA's action on each State's SIP is promulgated in 40 CFR part 52. The first section in the subpart in 40 CFR part 52 for each State is generally the "Identification of plan" section which provides chronological development of the State SIP. Alternatively, if the state has undergone the revised Incorporation by Reference formatting process (see 62 FR 27968; May 22, 1997), the identification of plan section identifies the State-submitted rules and plan elements that have been federally approved. The goal of the State-by-State SIP compilation is to identify those rules under the "Identification of plan" section which are currently federally-enforceable. In addition, some of the SIP compilations may include control strategies, such as transportation control measures, local ordinances, State statutes, and emission inventories. Some of the SIP compilations may not identify these other federally-enforceable elements.

The contents of a typical SIP fall into three categories: (1) State-adopted control measures which consists of either rules/regulations or source-specific requirements (e.g., orders and consent decrees); (2) State-submitted "non-regulatory" components (e.g., attainment plans, rate of progress plans, emission inventories, transportation control measures, statutes demonstrating legal authority, monitoring networks, etc.); and (3) additional requirements promulgated by EPA (in the absence of a commensurate State provision) to satisfy a mandatory section 110 or part D (CAA) requirement.

C. What Does It Mean To Be Federally-Enforceable?

Enforcement of the state regulation before and after it is incorporated into the federally-approved SIP is primarily a state responsibility. However, after the regulation is federally approved, EPA is authorized to take enforcement action against violators. Citizens also have legal recourse to address violations as described in section 304 of the CAA.

When States submit their most current State regulations for inclusion into federally-enforceable SIPs, EPA begins its review as soon as possible. Until EPA approves a submittal by rulemaking action, State-submitted regulations will be State-enforceable only. Therefore, State-enforceable SIPs may exist that differ from federally-enforceable SIPs. As EPA approves these State-submitted regulations, the regional offices will continue to update the SIP compilations to include these applicable requirements.

IV. What Are the Documents and Materials Associated With the SIP?

In addition to state regulations that provide for air pollution control, SIPs include EPA-approved non-regulatory elements (such as transportation control measures, local ordinances, state statutes, modeling demonstrations, and emission inventories). Both the state regulations and non-regulatory elements must have gone through the state rulemaking process with the opportunity for public comment. After these SIPs had been fully adopted by the State and submitted to EPA, EPA took rulemaking action on SIPs, and those which have been EPA-approved or conditionally approved are listed along with any limitations on their approval. Examples of EPA-approved documents and materials associated with the SIP include, but are not limited to: SIP Narratives; Particulate Matter Plans; Carbon Monoxide Plans; Ozone Plans; Maintenance plans; Vehicle Inspection and Maintenance (I/M) SIPs; Emissions Inventories; Monitoring Networks; State Statutes submitted for the purposes of demonstrating legal authority; Part D nonattainment area plans; Attainment demonstrations; Transportation control measures (TCMs); Committal measures; Contingency Measures; Non-regulatory and Non-TCM Control Measures; 15% Rate of Progress Plans; Emergency episode plans; and Visibility plans. As stated

above, the “non-regulatory” documents are available for public inspection at the appropriate EPA Regional Office.

V. What Is Being Made Available Under This Document?

This document announces that the federally-enforceable SIP for each State is available for review and public inspection at the appropriate EPA regional office and identifies the contact person for each regional office.

The federally-enforceable SIP contains both regulatory requirements and non-regulatory items such as plans and emission inventories. Regulatory requirements include State-adopted rules and regulations, source-specific requirements reflected in consent orders, and in some cases, provisions in the enabling statutes.

Following the 1990 CAA Amendments, the first section 110(h) SIP compilation availability notice was published on November 1, 1995 (61 FR 55459). At that time, EPA announced that the SIP compilations, comprised of the regulatory portion of each State SIP, were available at the EPA Regional Office serving that particular State. In general, the compilations made available in 1995 did not include the source-specific requirements or other documents and materials associated with the SIP. With the second notice of availability in 1998, the source-specific requirements and the “non-regulatory” documents [e.g., attainment plans, rate of progress plans, emission inventories, transportation control measures, statutes demonstrating legal authority, monitoring networks, etc.] were made available for the first time. These documents will remain available for public inspection at the respective regional office listed in the **ADDRESSES** section above. If you want to view these documents, please contact the appropriate EPA Regional Office and arrange for a mutually agreeable time.

Michael Regan,
Administrator.